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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,835	11/24/2003	Charles Michael Barnett		2989

36559 7590 07/28/2004

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EXAMINER	
NEWHOUSE, NATHAN JEFFREY	
ART UNIT	**PAPER NUMBER**
3727	

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/719,835	BARNETT, CHARLES MICHAEL
	Examiner	Art Unit
	Nathan J. Newhouse	3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6 and 8-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6 and 8-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 6 sets forth that the second attachment device is a magnet, but claim 9 sets forth that both of the attachment devices(first and second) are hook and loop strips. There is no support for applicant's bottle having both a magnet attachment device and a hook and loop strip attachment device. Applicant has only set forth that hook and loop strips may be used in place of the magnets if the bottle is to be attached to a non-metallic vehicle.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 sets forth that the second attachment device is a magnet, but in claim 9 applicant sets forth that both attachment devices are hook and loop strips. It is unclear how the second attachment device can be both a magnet and a hook and loop strip.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boughton (US 4,345,704) in view of Perr (US 3,370,818).

Boughton teaches a sport bottle having a push/pull closure (38) for providing an effective drinking spout. Boughton further teaches the bottle having Velcro, or hook and loop strips on the side to attach the bottle to a bicycle, etc.

Perr teaches the use of Velcro or hook and loop strips on various different objects to mount the objects to vertical or horizontal surfaces on various different vehicles such as ships and automobiles. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide additional Velcro or hook and loop strips on the bottom of the sports bottle of Boughton to allow the sports bottle to be attached to horizontal and vertical surfaces and to provide the attachment to an automobile or vehicle.

7. Claims 2-3, 6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boughton (US 4,345,704) in view of Perr (US 3,370,818) as applied to claim 1 above in paragraph #6, and further in view of Rehborg (US 2,957,596).

Boughton, as modified above, teaches everything except for the use of magnetic strips as the attachment devices.

Rehborg teaches that it is well known to use magnetic strips to attach bottles to metallic vehicles such as tractors, bull dozers and other agricultural vehicles. The use of magnetic strips and Velcro or hook and loop strips are considered to be art recognized equivalent fastening devices. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use hook and loop strips on the bottom and side of the sports bottle or magnetic strips to attach the sports bottle to a vehicle. Depending upon what vehicle the bottle is to be attached to results in the attachment device used, i.e., if the vehicle is made of metal, then the attachment devices are magnetic strips; if the vehicle is made of a non-metal material, then the attachment devices are hook and loop strips.

With respect to claim 11, the combination as set forth discloses the claimed invention except for the use of multiple sport bottles. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to use any desirable number of sport bottles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.,* 193 USPQ 8.

Alternatively, with respect to claim 11, the combination as set forth discloses the claimed invention except for the use of multiple sport bottles. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to use any number of sport bottles, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch,* 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

8. Claims 1-3, 6, 8 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rains (US 3,556,341) in view of Boughton (US 4,345,704).

Rains teaches a drinking container having a first attachment device (magnets 48) on the side and a second attachment device (magnet 42) on the base for attaching the container to horizontal and vertical surfaces of a vehicle. Rains does not teach the container having a push/pull type closure.

Boughton teaches a bottle attached to a vehicle with a push/pull type closure. These push/pull type closures are well known in the drinking container art as effective closures for drinking containers that provide a spout and are easily openable and closable. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the push/pull type closure of Boughton on the container of Rains to allow a user easy drinking and closing of the container.

With respect to claim 11, the combination as set forth discloses the claimed invention except for the use of multiple sport bottles. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to use any desirable number of sport bottles, since it has been held that mere duplication of the

essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.,* 193 USPQ 8.

Alternatively, with respect to claim 11, the combination as set forth discloses the claimed invention except for the use of multiple sport bottles. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to use any number of sport bottles, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch,* 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

9. Claims 4-5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rains(US 3,556,341) in view of Boughton (US 4,345,704) as applied to claims above in paragraph #8, and further in view of Perr (US 3,370,818).

Rains, as modified above, teaches everything except for the attachment devices comprising hook and loop strips.

Perr teaches the use of Velcro or hook and loop strips on various different objects to mount the objects to vertical or horizontal surfaces on various different vehicles such as ships and automobiles. The use of magnetic strips and Velcro or hook and loop strips are considered to be art recognized equivalent fastening devices. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use hook and loop strips on the bottom and side of the sports bottle or magnetic strips to attach the sports bottle to a vehicle. Depending upon what vehicle the bottle is to be attached to results in the attachment device used, i.e., if the vehicle is

made of metal, then the attachment devices are magnetic strips; if the vehicle is made of a non-metal material, then the attachment devices are hook and loop strips.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nathan J. Newhouse
Primary Examiner
Art Unit 3727